

DOCKET FILE COPY ORIGINAL
Before the
Federal Communications Commission

Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Services,)
(Fairview, Pennsylvania,)
Cambridge Springs, Pennsylvania,)
North Kingsville, Ohio)

MM Docket No. 93-250

RM - 8331
RM - 8397
RM - 8398

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

REPLY COMMENTS OF THOMAS J. SAUBER

Thomas J. Sauber ("Sauber"), by his attorney, pursuant to the public notice (Report No. 1989, released December 6, 1993), hereby respectfully submits his reply to the comments in regard to RM-8397/8398 in the above captioned rulemaking proceeding.¹

In regard thereto, it is stated as follows:

In FM Allotments (Pinewood, South Carolina), 5 FCC Rcd 7609, 7610 (1990) the Commission taught us that it is in the public interest, for any of the parties in a rulemaking proceeding, whose standing is based on filings made by the counterproposal deadline: "to suggest alternative channels which may lead to a resolution with respect to the communities already at issue in the proceeding."

¹ Report No. 1989 provided for reply comments to the counterproposals (RM 8397; RM 8398) to be filed no later than December 21, 1993.

This proceeding has evolved into consideration of wherein the public interest lies in allotting FM channels to three separate communities: Fairview, Cambridge Springs and North Kingsville.

I Initial proposal and initial counterproposals

(A) Initially, Channel 298A was proposed in RM - 8331 as a Fairview, Pennsylvania allotment.

(B) In timely filed counterproposals in RM - 8397, North Kingsville broadcasting proposed that instead, Channel 298A be allotted to North Kingsville, Ohio.

(C) Simultaneously in RM - 8398, Sauber filed a counterproposal that instead, Channel 298A be allotted to Cambridge Springs, Pennsylvania.

II Reply Comments to Counterproposals

A) North Kingsville, Ohio

Both KDC and Sauber proposed that it was in the public interest to allot Channel 241A to North Kingsville, Ohio, which allotment would achieve two goals. First, allotting a channel which can provide a first local service and second, simplifying this proceeding by removing a conflict between two proposed allotments.

B) Cambridge Springs, Pennsylvania

In its Reply Comments, KDC urges that Channel 283A² be allotted to Cambridge Springs, rather than 298A. KDC urges this

² In its counterproposal to allot Channel 283A to Cambridge Springs KDC failed to do a preclusion study addressing where, if it were so proposed to be allotted, other potential first transmission services would be precluded.

allotment would permit "the use of a 6 Kw non-directional operation for...Channel 283A at Cambridge Springs...."

III Proposed Resolution

Herein, Sauber proposes a resolution which he respectfully submits is more in the public interest than that previously proposed in this proceeding. The essential element of that resolution is the assignment of Channel 230A to Fairview, Pennsylvania. That resolution is more in the public interest because:

A) North Kingsville, Ohio can be served by Channel 241A

Both KDC and Sauber's experienced engineering consultants utilizing the same standard criteria³ have concluded that North Kingsville's need for a first local transmission service can be met by allotting Channel 241A to that community.

B) Fairview, Pennsylvania, can be served by Channel 230A

Use of Channel 298A at Fairview, Pennsylvania will require the use of a directional antenna to provide the required protection to Canada. In the allotment process, directional antennas are permissible in cases involving Canada. However, even in those cases where an allotment can be made which does not require use of a directional antenna, the allotment of the latter channel is obviously more in the public interest than the allotment of a channel which requires use of a directional

³ Using the same standard engineering criteria in this reply comment, as discussed post, Sauber's consulting engineer has concluded that Channel 230A, in lieu of Channel 298A at Fairview is an allotment more in the public interest. In so doing, he has disregarded such unacceptable criteria as the effects of ducting as mere speculation.

antenna. In cases where the Commission has such a choice it should choose the non-directional alternative as it provides both greater coverage and greater stability to the allotment process.

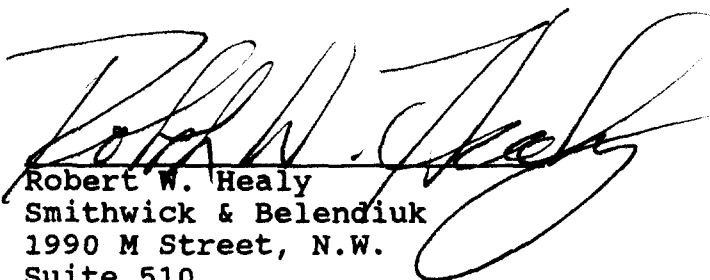
Additionally, a directional antenna costs about \$6,000 more than an non-directional one. Such additional cost draws from funds which would be otherwise available to create programming to meet local needs. This is particularly important where the proposal is to provide a first local transmission service. Moreover, as the engineering report shows, the resultant reduction of ERP from using a directional antenna to serve Fairview on Channel 298A will substantially reduce the ability of the station to have its signal penetrate buildings.

Using the same method of engineering analysis that KDC utilized in concluding Channel 241A can be assigned to North Kingsville, Ohio, Sauber's engineer has concluded that Channel 230A can be allotted to Fairview, without the need to use a directional antenna to achieve 6kw of Power. As with KDC's analysis, Sauber's engineer did not take into consideration any argument concerning potential effects from signal ducting over water paths. Such considerations have been traditionally rejected by the Commission because it would virtually eliminate any allotments which are to be in communities located along water paths.

C) Finally, it is to be noted that use of Channel 298A at Cambridge Springs, Pennsylvania will provide a first local service to that community operating at a full 6 kw of power with a non-directional antenna.

Wherefore, in light of the above, it is respectfully requested that the Commission amend the FM table of allotments to assign: Channel 230A to Fairview, Pennsylvania, Channel 241A to North Kingsville, Ohio, and Channel 298A to Cambridge Springs, Pennsylvania.

Respectfully submitted for
Thomas J. Sauber

By: 
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lpd/rwh/1220.rep

CERTIFICATE OF SERVICE

I, Lori Paige DiLullo, a legal assistant in the law firm of Smithwick, & Belendiuk, P.C., certify that on this 21st day of December, 1993, copies of the foregoing were mailed, postage prepaid, to the following:

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Ms. Leslie K. Shapiro (*)
FM Allocations Branch
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*By hand


Lori Paige DiLullo

JOHN J. MULLANEY
JOHN H. MULLANEY, P.E.

MULLANEY ENGINEERING, INC.

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ENGINEERING EXHIBIT RM-2:

**THOMAS J. SAUBER
CAMBRIDGE SPRINGS, PENNSYLVANIA**

**REPLY COMMENTS
MM DOCKET 93-250 - FAIRVIEW, PENNSYLVANIA
COUNTER PROPOSAL - CAMBRIDGE SPRINGS, PENNSYLVANIA
COUNTER PROPOSAL - NORTH KINGSVILLE, OHIO**

DECEMBER 17, 1993

**ENGINEERING STATEMENT IN SUPPORT OF A
PETITION FOR RULE MAKING
TO AMEND
THE FM TABLE OF ASSIGNMENTS**

**ORIGINAL
SIGNATURE**

MULLANEY ENGINEERING, INC.

ENGINEERING EXHIBIT RM-2:

**THOMAS J. SAUBER
CAMBRIDGE SPRINGS, PENNSYLVANIA**

**REPLY COMMENTS
NM DOCKET 93-250 - FAIRVIEW, PENNSYLVANIA
COUNTER PROPOSAL - CAMBRIDGE SPRINGS, PENNSYLVANIA
COUNTER PROPOSAL - NORTH KINGSVILLE, OHIO**

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2. Narrative Statement.
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from Fairview, PA.
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DECLARATION

I, John J. Mullaney, declare and state that I am a graduate electrical engineer with a B.E.E. and my qualifications are known to the Federal Communications Commission, and that I am an engineer in the firm of Mullaney Engineering, Inc., and that firm has been retained by Thomas J. Sauber to prepare an engineering statement in support of a Petition to Amend the FM Table of Assignments.

All facts contained herein are true of my own knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.


John J. Mullaney

Executed on the 17th day of December 1993.

MULLANEY ENGINEERING, INC.

ENGINEERING EXHIBIT RM-2:

**THOMAS J. SAUBER
CAMBRIDGE SPRINGS, PENNSYLVANIA**

**REPLY COMMENTS
MM DOCKET 93-250 - FAIRVIEW, PENNSYLVANIA
COUNTER PROPOSAL - CAMBRIDGE SPRINGS, PENNSYLVANIA
COUNTER PROPOSAL - NORTH KINGSVILLE, OHIO**

NARRATIVE STATEMENT:

I. GENERAL:

This engineering statement has been prepared on behalf of Thomas J. Sauber. The purpose of this statement is to support reply comments in MM Docket 93-250 concerning the simultaneous requests for the allotment of FM Channel 298A to the following three communities:

1. Fairview, PA
2. Cambridge Springs, PA
3. North Kingsville, OH

Since all three cities are within 55 kilometers of each other and considering the fact that the FCC rules require a co-channel Class A separation of 115 kilometers, it is clear that the simultaneous requests for the allotment of FM Channel 298A are mutually exclusive.

II. ENGINEERING DISCUSSION:

A. Currently Proposed Solution:

As initially filed all three cities requested the allotment of FM Channel 298A. However, since that time it has been demonstrated that alternate channels exist which will permit all three cities to receive a new allotment.

| City | Present | Proposed |
|-----------------------|---------|----------|
| Cambridge Springs, PA | - | 283A |
| North Kingsville, OH | - | 241A |
| Fairview, PA | - | 298A |

While the above allotment scheme does appear to solve all of the problems, Sauber does not agree that it is the optimum solution.

It should be remembered that the use of FM Channel 298A at Fairview will require the use of a directional antenna in order to provide the required protection to Canada. Under normal circumstances, the use of a directional antenna to permit the creation of a new FM allotment is strictly prohibited by Section 73.207(a) of the FCC rules. However, in this specific case, since the directional antenna is used to provide protection to a Canadian station its use is permitted by the rules (see "Canadian - United States FM Broadcast Agreement"). However, the mere fact that something is permissible does not mean it should be selected when an alternative solution is available that will avoid the need for a directional antenna. The Commission has

indicated that despite the fact that new service could be provided to various communities, even to communities with no local service, it does not wish to permit the creation of an allotment that would require the use of a directional antenna. While the agreement with Canada appears to be the only exception to this policy, it should not be used when a non-directional solution is available.

The use of a directional will unnecessarily complicate the construction of the new facility at Fairview. At construction time, it will easily cost an additional \$6,000 to comply with the FCC rules regarding directional antennas. It is recognized that the direction of suppression from Fairview is generally over the water. However, it is also over the the most populated city located within the proposed service area. Such a reduction in ERP will negatively impact the ability of the Fairview station to penetrate buildings. The inability of 3 kW Class A stations to penetrate buildings was a primary consideration when the Commission debated and eventually elected to increase the maximum power for all Class A stations to 6 kW.

An argument concerning potential effects from signal ducting over water paths has traditionally been rejected by the Commission as an unacceptable argument for rejecting a proposed allotment. Such arguments, if accepted, would potentially eliminate nearly all channels when the cities are located along water paths. More importantly, such arguments could then be used to prevent many future allotments

based upon the potential impact to an existing service due to ducting. Remember that both channels 230A & 298A have Canadian stations located across a water path and, therefore, such an argument would eliminate any hope of an allotment. However, only 298A is so short spaced as to require a reduce in ERP to prevent interference.

B. Alternate Channels for Fairview, PA:

A preliminary review of all 80 commercial FM channels was made to determine what, if any, other channels are available to serve the community of Fairview, PA. The analysis indicates that channels 230A & 298A are the only channels available with a site close enough to place a city grade contour over Fairview, PA.

The following geographic coordinates are for the city of Fairview, PA:

Latitude: 42° 01' 48"
Longitude: 80° 15' 12"

Figure 1 is a Channel Allocation Study on 230A from the Reference Point for Fairview which indicates the required separation in kilometers to all known Licenses, Construction Permits, Open Allocations, pending Applications, and pending Rule Makings. From this study it can be determined that the proposed special reference point exceeds all of the minimum 6 kW separations to everything except CKLW-FM which operates on Channel 230C1 at Windsor, ON. It should be noted that the indicated short spacing of 29.0 km is based upon the requirement that a U.S. 6 kW facility is considered as a Class B1 (25 kW) with respect to all Canadian stations.

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Figure 2 is a map which illustrates the locations of the protected and interfering contours for CKLW-FM and 230A at Fairview. The contours are based upon the assumption of maximum permissible ERP and HAAT for each location. The protected contour for the Canadian station is the 54 dBu contour and for the U.S. Class A facility is the 60 dBu contour. The U/D ratio for co-channel facilities is -20 dB. The following distances were used:

| | | |
|-------------------------|-----|------------|
| CKLW-FM - Windsor, ON | | |
| Protected 54 dBu | 86 | kilometers |
| Interfering 40 dBu | 172 | |
| PRM 230A - Fairview, OH | | |
| Protected 60 dBu | 28 | kilometers |
| Interfering 34 dBu | 113 | |

As can be seen from the map, no overlap will occur. Both stations are fully protected from objectionable interference. Consequently, FM Channel 241A qualifies as a specially negotiated short spaced allotment. It should be understood that the Fairview facility would be permitted to radiate the full 6 kW ERP in all directions since no objectionable interference results. **No directional transmit antenna would be required.**

C. Public Interest Showing:

With the allotment of FM Channel 241A in lieu of 298A to North Kingsville, OH, it is no longer in conflict with either Fairview or Cambridge Springs, PA.

With the allotment of FM Channel 230A in lieu of 298A to Fairview, PA, it is no longer in conflict with Cambridge Springs, PA. The use of 230A will also eliminate the need to require the use of a

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directional antenna by those applicants wishing to propose maximum 6 kW facilities.

While either channel 298A or 283A will work in Cambridge Springs, 298A provides the most flexibility on proposed site locations and, therefore, is the preferred allotment.

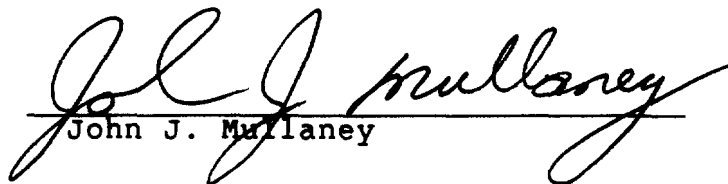
III. SUMMARY:

Thomas J. Sauber requests that the FM Table of Assignments be amended to allot FM Channel 298A at Cambridge Springs, PA and Channel 241A in lieu of 298A to North Kingsville, OH and Channel 230A in lieu of 298A to Fairview, PA.

| City | Present | Proposed |
|-----------------------|---------|----------|
| Cambridge Springs, PA | - | 298A |
| North Kingsville, OH | - | 241A |
| Fairview, PA | - | 230A |

Thomas J. Sauber believes that the proposed allotment will Serve the Public Interest and he will promptly file an application should 298A be allotted to Cambridge Springs.

December 17, 1993.


John J. Mullaney

ALT-RH 230 A FR POLARIZATION ERP (KW) HAAT RCANSL
 FAIRVIEW PA US HOR PLN BM TILT (METER) (METER)
 42.0148 80.1512 (D.MHSS) HORIZONTAL 6.000 0.000 100.0 348.7
 VERTICAL 6.000 0.000 100.0 348.7

THE FOLLOWING CONTOURS ARE CALCULATED USING:

ERP= 6.000 (KW) 7.8 (DBK) HAAT= 100.0 (METERS)

CALCULATED HAAT FROM TOPO DATA BASE

| INTERFERING | DOMESTIC | | CANADIAN | | AZIMUTH DEGREES | HAAT (METERS) | HAAT (FEET) | CONTOURS (KM) | | |
|----------------------|----------|--------|----------|----|--------------------|------------------|----------------|---------------|--------|--------|
| | DBU | KM | DBU | KM | | | | 70 DBU | 60 DBU | 54 DBU |
| CD CHANNEL (40.0) | 86.7 | (34.0) | 98.9 | | 0.0 | 175.8 | 576.8 | 21.6 | 36.8 | 48.6 |
| 1ST ADJACENT (54.0) | 43.7 | (48.0) | 35.0 | | 45.0 | 140.8 | 462.0 | 19.4 | 33.0 | 44.4 |
| 2ND ADJACENT (80.0) | 9.1 | (74.0) | 7.0 | | 90.0 | 17.2 | 56.6 | 8.9 | 15.8 | 22.4 |
| 3RD ADJACENT (100.0) | 2.8 | (94.0) | 2.3 | | 135.0 | 5.1 | 16.7 | 8.9 | 15.8 | 22.4 |
| | | | | | 180.0 | 21.8 | 71.6 | 8.9 | 15.8 | 22.4 |
| | | | | | 225.0 | 99.3 | 325.7 | 16.1 | 28.2 | 38.6 |
| PROTECTED (60.0) | 28.3 | (54.0) | 38.7 | | 270.0 | 163.4 | 536.2 | 20.9 | 35.6 | 47.3 |
| | | | | | 315.0 | 176.5 | 579.0 | 21.7 | 36.9 | 48.7 |
| CITY GRADE (70.0) | 16.2 | | | | AVERAGE | 100.0 | 328.1 | 16.2 | 28.3 | 38.7 |

EST SITE ELEVATION : 244.8 m.; 803.2 ft.
 EST RAD CENTER AGL : 103.9 m.; 341.0 ft.
 RAD CENTER A.M.S.L.: 348.7 m.; 1144.2 ft.

 THE CANADIAN BORDER IS 36.3 KM ON A BEARING OF 350.1 DEG. TRUE

| AZIMUTH | | CALL | STS | FILE NUMBER | CITY | ST C | LAT (D.MHSS) | LONG | REL CHN | ERP (KW) | HAAT D | I-CON | P-CON | IR | IC | REZLT |
|--------------------------------------------------------------------------------------------|-------|--------|-----|-------------|------------|------|-----------------|---------|-----------|------------|--------|-------|-------|-------|------|-------|
| FROM | TO | | | | | | | | | | | | | | | |
| 85.3 | 265.9 | WJSE | LIC | BLM50917KC | Jamestown | NY | A 42.0506 | 79.1723 | 3RD 227B | 26.5H26.5V | 196 | | | 80.0 | 69. | |
| 319.1 | 138.3 | CDCLFM | OPE | | London | ON | C 42.5720 | 81.2120 | 2ND 228C1 | 100.H100.V | 216 | | | 137.0 | 106. | |
| 247.4 | 66.8 | NEW | APP | BPH930119NB | North Mad | OH | A 41.4627 | 81.0359 | 1ST 229A | 3.5H 3.5V | 1320 | | | 73.2 | 72. | C |
| **CUT-OFF DATE = 05/11/93 **COMMENT**Application Dismissed 930803-Pet For Recon 930908 | | | | | | | | | | | | | | | | |
| 250.0 | 69.5 | NEW | APP | BPH930121MG | North Mad | OH | A 41.4708 | 81.0837 | 1ST 229A | 6.0H 6.0V | 1000 | | | 78.7 | 72. | C |
| 250.0 | 69.5 | NEW | APP | BPH930121MB | North Mad | OH | A 41.4708 | 81.0837 | 1ST 229A | 6.0H 6.0V | 1000 | | | 78.7 | 72. | C |
| 250.9 | 70.3 | NEW | APP | BPE930121MD | North Mad | OH | A 41.4731 | 81.0941 | 1ST 229A | 6.0H 6.0V | 100 | | | 79.8 | 72. | C |
| 251.4 | 70.9 | NEW | APP | BPH930121MF | North Mad | OH | A 41.4839 | 81.0657 | 1ST 229A | 6.0H 6.0V | 1000 | | | 75.6 | 72. | C |
| 250.9 | 70.3 | VAC | | | North Mad | OH | A 41.4731 | 81.0941 | 1ST 229A | H V 0 | | | | 79.8 | 72. | C |
| 49.5 | 230.4 | WBLK | LIC | BLH7343 | Dewey | NY | A 42.5310 | 78.5225 | 1ST 229B | 50.H 50.V | 122 | | | 148.1 | 113. | |
| 126.9 | 308.1 | WQYX | APP | BPH871019IA | Clearfield | PA | A 40.5905 | 78.2607 | CO 230B1 | 25.0H25.0V | 100 | | | 191.1 | 143. | |
| **COMMENT**To amend to channel 226B1 Per D88-496-App Dismissed 880531 | | | | | | | | | | | | | | | | |
| 115.4 | 296.6 | VAC | | | St. Marys | PA | A 41.2456 | 78.3356 | CO 230B1 | H V 0 | | | | 156.1 | 143. | |
| **COMMENT**Effective 8-26-91-RSVD For WKBIFM Per D88-496-Pet For Recon **DOCKET**88-496 ** | | | | | | | | | | | | | | | | |
| 274.9 | 93.0 | CKLWFM | OPE | | Windsor | ON | C 42.1015 | 82.5929 | CO 230C1 | 100.H100.V | 2000 | | | 227.0 | 256. | |
| **COMMENT**SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION | | | | | | | | | | | | | | | | |
| 21.2 | 201.8 | CDLFM | OPE | | Toronto | ON | C 43.3833 | 79.2315 | 1ST 231C1 | 38.H 38.V | 421 | | | 192.6 | 181. | |
| **COMMENT**SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION. | | | | | | | | | | | | | | | | |
| 169.0 | 349.1 | MEQZ | LIC | BLH790109AD | Saesertow | PA | A 41.4223 | 80.1009 | 2ND 232A | 3.00H3.00V | 91 | | | 36.6 | 31. | C |

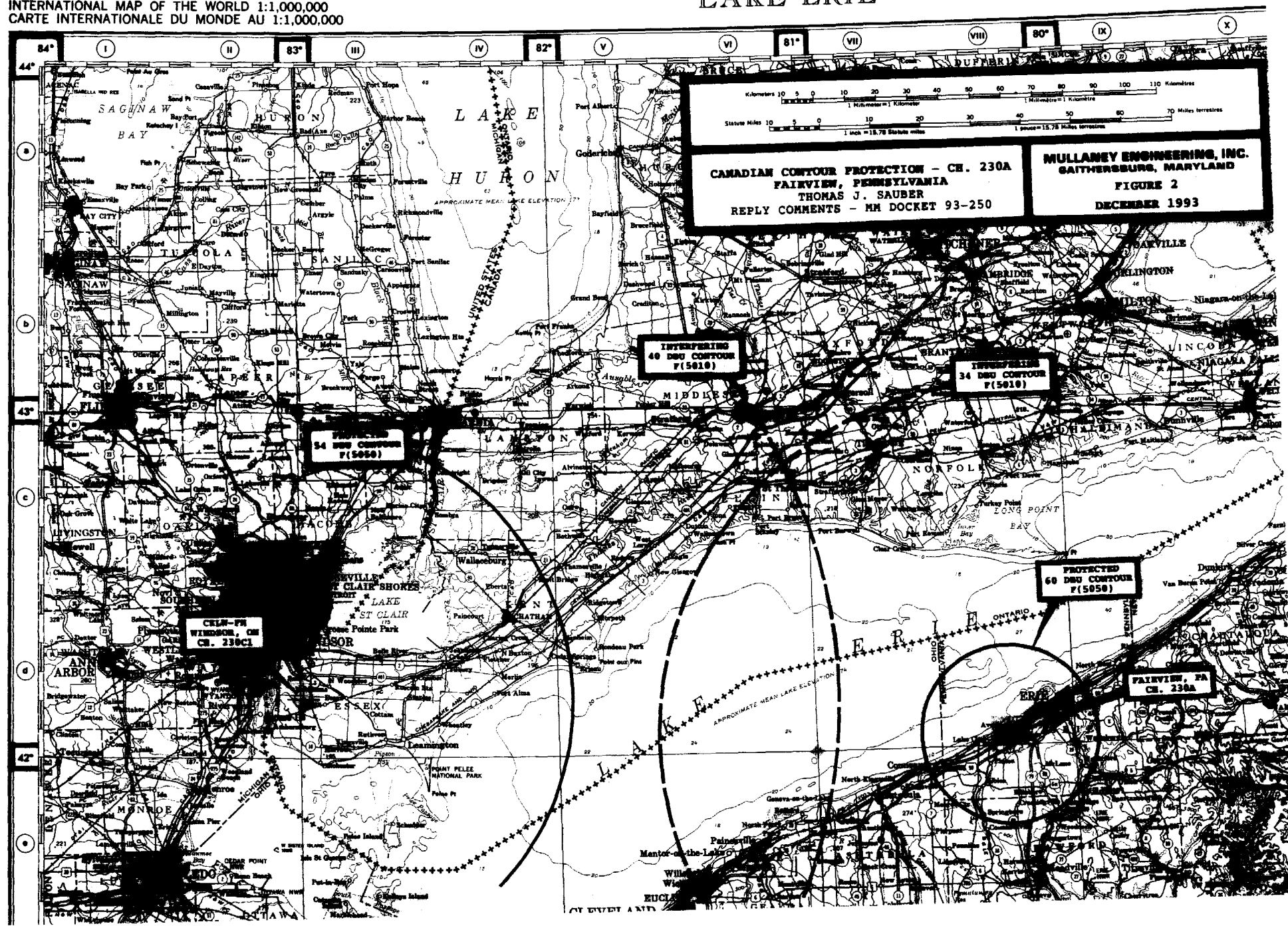
CKLW-FM - THE REQUIRED 3 KW SPACING IS 239 KM

CHANNEL ALLOCATION STUDY - CH. 230A
 FAIRVIEW, PENNSYLVANIA
 THOMAS J. SAUBER
 REPLY COMMENTS - MM DOCKET 93-250

MULLANEY ENGINEERING, INC.
 GAITHERSBURG, MARYLAND
 FIGURE 1
 DECEMBER 1993

INTERNATIONAL MAP OF THE WORLD 1:1,000,000
CARTE INTERNATIONALE DU MONDE AU 1:1,000,000

LAKE ERIE



MULLANEY ENGINEERING, INC.
SAITHESSBURG, MARYLAND
FIGURE 2
DECEMBER 1993